

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JAKIA WILLIAMS,

Plaintiff,

VS.

**FOCUS FREIGHT SYSTEM, INC.;
LARRY MCMANNIS; HOUSTON
SPECIALTY INSURANCE
COMPANY d/b/a SKYWARD
SPECIALTY INSURANCE;
PROGRESSIVE PREFERRED
INSURANCE COMPANY; and
JOHN DOES 1-10,**

Defendants.

[illegible]

CIVIL ACTION FILE

NO.: _____

DEFENDANTS' JOINT NOTICE OF REMOVAL

COME NOW **FOCUS FREIGHT SYSTEM, INC., LARRY**
MCMANNIS, HOUSTON SPECIALTY INSURANCE COMPANY d/b/a
SKYWARD SPECIALTY INSURANCE, purported Defendants (“Defendants”)
in the above-styled civil action, appearing specially and without waiving, but
specifically reserving all defenses arising from jurisdiction, service and process,
and **PROGRESSIVE PREFERRED INSURANCE COMPANY**, a Defendant in
the above-styled civil action, and hereby remove Civil Action File No. 23A02631

from the State Court of DeKalb County to the United States District Court for the Northern District of Georgia, Atlanta Division, pursuant to Fed. R. Civ. P. 81(c) and 28 U.S.C. §§ 1332, 1441 and 1446, and as grounds for the removal state as follows:

STATEMENT OF THE CASE

1.

Defendants have been sued in a civil action brought in the State Court of DeKalb County, which is located within the Atlanta Division of the United States District Court for the Northern District of Georgia. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of all of the process, pleadings, orders and documents from the State Court Action have been attached as Defendants' Exhibit 1 (hereinafter "D-1").

2.

The present matter is an action for damages for bodily injury arising out of a June 30, 2022, five-vehicle, motor vehicle accident that involved Plaintiff Jakia Williams, and Defendant Larry McMannis (hereinafter "the subject accident"). D-1, Complaint, ¶¶ 8-18. Plaintiff makes claims against Defendant Larry McMannis for (i) ordinary negligence and (ii) negligence per se. *Id.*, Complaint, ¶¶ 23-26, 28-31. Plaintiff makes claims against Defendant Focus Freight System, Inc., for (i)

vicarious liability/respondeat superior for the acts/omissions of Larry McMannis and (ii) negligent hiring, training, supervision and retention of Larry McMannis. *Id.*, ¶¶ 33-36. Plaintiff makes claims for direct action against Defendants Houston Specialty Insurance Company d/b/a Skyward Specialty Insurance and Progressive Preferred Insurance Company pursuant to O.C.G.A. § 40-2-140 and/or O.C.G.A. § 40-1-112. *Id.*, ¶¶ 38-46.

3.

The Complaint was filed June 14, 2023, in the State Court of DeKalb County, Civil Action File No. 23A02631. *See* D-1, Complaint. Defendant Progressive Preferred Insurance Company was served with the Summons and Complaint on June 16, 2023. Defendant Larry McMannis is deceased and, therefore, has not been served with the Summons or Complaint. While Plaintiff purports to have served Defendant Houston Specialty Insurance Company d/b/a Skyward Specialty Insurance on June 16, 2023, Defendant Houston Specialty Insurance Company d/b/a Skyward Specialty Insurance disputes the validity of this serve. While Plaintiff purports to have served Defendant Focus Freight System, Inc. on June 22, 2023, Defendant Focus Freight System, Inc. disputes the validity of this service.

DIVERSITY JURISDICTION UNDER 28 U.S.C. § 1332(a)

4.

Plaintiff Jakia Williams is a citizen of the State of Georgia. D-1, Complaint, ¶ 3. Defendant Focus Freight System, Inc. is, and was at the time this lawsuit was filed, a corporation organized under the laws of the State of Illinois, with its principal place of business in the State of Illinois. Defendant Larry McMannis is deceased, and prior to his death was a citizen of the State of Ohio. Defendant Houston Specialty Insurance Company d/b/a Skyward Specialty Insurance is not a valid legal entity; however, Houston Specialty Insurance Company was at the time this lawsuit was filed, a corporation organized under the laws of the State of Delaware with its principal place of business in the State of Texas. Defendant Progressive Preferred Insurance Company is, and was at the time this lawsuit was filed, a corporation organized under the laws of the State of Ohio with its principal place of business in the State of Ohio. Therefore, there is complete diversity of citizenship between the parties.

5.

Plaintiff contends that as a result of Defendants' negligent actions, "Plaintiff suffered catastrophic bodily injuries, emotional injuries, diminished quality of life, lost income, incurred medical bills in excess of \$134,339.35 and experienced

severe physical and mental pain and suffering.” D-1, Complaint, ¶ 26. Plaintiff’s Complaint also avers the following:

Plaintiff claims the following damages:

- (a) All special damages, including medical expenses, in an amount to be proven at trial;
- (b) Pain and suffering;
- (c) Loss of enjoyment of life;
- (d) Emotional distress; and
- (e) attorneys’ fees and litigation expenses pursuant to O.C.G.A. § 13-6-11 and other applicable law.

Id., ¶ 49. Plaintiff is additionally seeking punitive damages pursuant to O.C.G.A. § 51-12-5.1 and attorney’s fees and litigation expenses pursuant to O.C.G.A. § 13-6-11. D-1, Complaint, ¶¶ 47-49.

6.

In determining whether the requisite \$75,000.00 amount in controversy has been established, jurisdiction “is proper if it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement.” *Williams v. Best Buy Co., Inc.*, 269 F.3d 1319 (11th Cir. 2001). If the jurisdictional amount is not facially apparent from the complaint, the court ... may require evidence relevant to the amount in controversy.” *Id.*

In the present case, given the damages claimed by Plaintiff, Defendants assert that it is facially apparent from the Plaintiff's Complaint that the requisite \$75,000.00 amount in controversy requirement has been met.

**ALL PROCEDURAL REQUIREMENTS
FOR REMOVAL HAVE BEEN SATISFIED**

7.

Defendant Larry McMannis has not been served with the Summons or Complaint in this matter. Defendant Progressive Preferred Insurance Company was served with the Summons and Complaint on June 16, 2023. While Defendants Focus Freight System, Inc. and Houston Specialty Insurance Company d/b/a Skyward Specialty Insurance dispute the validity of Plaintiff's purported June 16, 2023 service, regardless, this Joint Notice of Removal is filed within 30 days from the date that any of the Defendants in this case were served with process. Removal is, therefore, timely in accordance with 28 U.S.C. § 1446(b).

8.

Pursuant to 28 U.S.C. 1446(b)(2)(A), "all defendants who have been properly joined and served must join in or consent to the removal of the action." As such, Defendants Focus Freight System, Inc., Larry McMannis, Houston

Specialty Insurance Company d/b/a Skyward Specialty Insurance Company and Progressive Preferred Insurance Company expressly consent to the removal of this action and the requirements of 28 U.S.C. § 1446(b)(2)(A) have been met.

CONCLUSION

By this Joint Notice of Removal, Defendants Focus Freight System, Inc., Larry McMannis, Houston Specialty Insurance Company d/b/a Skyward Specialty Insurance and Progressive Preferred Insurance Company do not waive any objections they may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action. Defendants Focus Freight System, Inc., Larry McMannis, Houston Specialty Insurance Company d/b/a Skyward Specialty Insurance and Progressive Preferred Insurance Company intend no admission of fact, law, or liability by this Notice and expressly reserve all defenses, motions and/or pleas.

WHEREFORE, Defendants Focus Freight System, Inc., Larry McMannis, Houston Specialty Insurance Company d/b/a Skyward Specialty Insurance and Progressive Preferred Insurance Company pray that the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 14th day of July, 2023.

**CRUSER, MITCHELL, NOVITZ,
SANCHEZ, GASTON & ZIMET, LLP**



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CERTIFICATE OF COMPLIANCE

Undersigned counsel certify the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Rule 5.1(C).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the undersigned has this day electronically filed the within and foregoing **DEFENDANTS' JOINT NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

L. Chris Stewart, Esq.
Michael T. Roth, Esq.
Stewart Miller Simmons Trial Attorneys, LLC
55 Ivan Allen Jr. Blvd., Suite 700
Atlanta, GA 30308
Counsel for Plaintiff

I FURTHER CERTIFY that the undersigned has mailed copies of the entire pleading referenced above to the above address.

This 14th day of July, 2023.

**CRUSER, MITCHELL, NOVITZ,
SANCHEZ, GASTON & ZIMET, LLP**



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